

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Consolidated Matters of:	
NEWPORT-MESA UNIFIED SCHOOL DISTRICT,	OAH Case No. 2015010061
v.	
PARENT ON BEHALF OF STUDENT,	
PARENT ON BEHALF OF STUDENT,	OAH Case No. 2015030349
v.	
NEWPORT-MESA UNIFIED SCHOOL DISTRICT.	ORDER GRANTING MOTION TO CONSOLIDATE AND GRANTING CONTINUANCE

On December 30, 2014, District filed a Request for Due Process Hearing in OAH case number 2015010061 (District's Case), naming Student.

On March 5, 2015, Student filed a Request for Due Process Hearing in OAH case number 2015030349 (Student's Case), naming District.

During the April 20, 2015 prehearing conference in Student's Case, the parties jointly requested and stipulated that Student's case be consolidated with District's Case. Further, the parties requested that the hearing in Student's Case be continued to the hearing that is scheduled in District's case.

Consolidation

Although no statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases, OAH will generally consolidate matters that involve: a common question of law and/or fact; the same parties; and when consolidation of the matters furthers the interests of judicial economy by saving time or preventing inconsistent rulings. (See Gov. Code, § 11507.3, subd. (a) [administrative proceedings may be consolidated if they involve a common question of law or fact]; Code of Civ. Proc., § 1048, subd. (a) [same applies to civil cases].)

Here, District's Case and Student's Case involve a common question of law or fact, specifically, the appropriateness of the placement District offered Student in the

December 11, 2014 Individualized Educational Program. Although there are additional issues in District's Case, consolidation furthers the interests of judicial economy because taking testimony and exhibits regarding the common question of fact in two separate hearings, which are scheduled to be held within days of each other, would be inefficient. Accordingly, consolidation is appropriate.

#### Request to Continue Student's Case

A due process hearing must be held, and a decision rendered, within 45 days of receipt of the complaint, unless a continuance is granted for good cause. (Ed. Code, §§ 56502, subd. (f) & 56505, subd. (f)(1)(C)(3).)

The parties' joint request to continue the prehearing conference and due process hearing in Student's Case a few days to align with the prehearing conference and due process hearing dates currently scheduled in District's Case demonstrates good cause for a continuance, based on the judicial economy of the consolidated cases proceeding only six days later than presently scheduled in Student's Case.

#### ORDER

1. The parties' joint motion to consolidate is granted.
2. The parties' joint motion to continue the prehearing conference and hearing dates in Student's Case to those in District's Case is granted, for good cause.
3. The prehearing conference in these consolidated cases shall be held on April 27, 2015, at 10:00 a.m., and the due process hearing in the consolidated cases shall be held on May 5, 6, and 7, 2015, and continuing day to day, Monday through Thursday, as needed in the discretion of the ALJ. The hearing will begin at 9:30 a.m. on the first day, and at 9:00 a.m. on all other days, unless otherwise ordered by the ALJ.
4. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the date of the filing of the complaint in District's Case (OAH case number 2015010061).
5. All further pleadings in these consolidated cases shall be filed in OAH case number 2015010061 (District's Case).

DATE: April 20, 2015

/s/

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KARA HATFIELD  
Administrative Law Judge  
Office of Administrative Hearings